

FCC MAIL SECTION

DOCKET FILE COPY ORIGINAL

AUG 10 8 18 AM '98

Federal Communications Commission

DA 98-1516

DISPATCHED BY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

Amendment of Section 73.202(b),)

Table of Allotments,)

FM Broadcast Stations.)

(Old Forge and Newport Village, New York))

MM Docket No. 97-179

RM-9064

REPORT AND ORDER
(Proceeding Terminated)

Adopted: July 29, 1998

Released: August 7, 1998

By the Chief, Allocations Branch:

1. At the request of 21st Century Radio Ventures, Inc. ("petitioner"), the Commission has before it the Notice of Proposed Rule Making ("Notice"), 12 FCC Rcd 11972 (1997), proposing the reallocation of Channel 259A from Old Forge, New York, to Newport Village, New York, as the community's first local aural service, and the modification of petitioner's construction permit (BPH-940203MC) to specify Newport Village as the station's community of license. Petitioner filed comments in response to the Notice reiterating its intention to apply for the channel, if allotted, and requesting the allotment of Channel 223A to Old Forge. A Further Notice of Proposed Rule Making ("Further Notice"), 13 FCC Rcd 7190 (1998), was issued proposing the allotment of Channel 223A to Old Forge to which the petitioner responded reiterating its intention to apply for the channel, if allotted. No other comments were received.

2. In the Notice, we noted that although the proposed station would cover the most populous part of the nearby Utica-Rome Urbanized Area with a 60 dBu signal, it would not serve the area with a 70 dBu signal. Thus, petitioner was not required to demonstrate that Newport Village is sufficiently independent from the central cities to justify a first local service preference. However, the staff engineering study did find that the reallocation of Channel 259A from Old Forge would result in the continuation of white and gray areas totaling 59 square kilometers with a population of 229 people and that this area would not be encompassed by an authorized station on Channel 231A at Old Forge.¹ In response, petitioner states that, by using the more accurate block centroid retrieval method, it has determined that the white and grey areas identified by the Commission are unpopulated.² Additionally, it states that it has lost the transmitter site specified

¹ The application of Lyle Robert Evans for a construction permit for a new station on Channel 231A at Old Forge was granted on March 6, 1998.

² The Commission has stated that because the Census Bureau recognizes the Block Centroid Method as a more accurate calculation method, we will also accept this method and would rely on the most accurate method presented to resolve disputes. See Grandfathered Short-Spaced FM Stations, 12 FCC Rcd 11840, 11845 (1997).

in its construction permit and, therefore, even if the reallocation is not granted, it might not be able to find a new site which would provide service to the same area.

3. We believe the public interest would be served by reallocating Channel 259A from Old Forge to Newport Village and modifying the petitioner's outstanding construction permit to specify Newport Village as the community of license. This will provide Newport Village with a first local aural service, while not depriving Old Forge of its sole local service. This reallocation will also enable the station to increase the population which it will serve from its present 2,889 persons to 168,889 persons. A staff engineering study has confirmed that, using the block centroid retrieval method, the white and gray areas identified in the Notice are unpopulated. In addition, we find that the public interest would be served by allocating Channel 223A to Old Forge as the community's second local aural service.

Technical Summary

4. Channel 259A can be allotted to Newport Village in compliance with the Commission's minimum distance separation requirements with a site restriction of 10 kilometers (6.2 miles) northwest to avoid a short-spacing to Station WTKW, Channel 258A, Bridgeport, New York, and Station WRVE, Channel 258B, Schenectady, New York. Channel 223A can be allotted to Old Forge in compliance with the Commission's minimum distance separation requirements with regard to all domestic allotments without the imposition of a site restriction, but is short-spaced to Station KFQR-FM, Channel 223C1, Montreal, Quebec, Canada.³ Canadian concurrence in both allotments has been received since both communities are located within 320 kilometers (200 miles) of the U.S.-Canadian border. The Old Forge allotment has received concurrence as a specially negotiated short-spaced allotment.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective September 21, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Newport Village, New York	259A
Old Forge, New York	223A, 231A

5. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the construction permit of 21st Century Radio Ventures, Inc., permittee of a new station on Channel 259A at Old Forge, New York (BPH-940203MC), IS MODIFIED to specify Newport Village, New York, in lieu of Old Forge, New York, as its community of

³ The coordinates for Channel 259A at Newport Village are 43-15-43 North Latitude and 75-05-02 West Longitude. The coordinates for Channel 223A at Old Forge are 43-42-42; 74-58-24.

license, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

6. A filing window for Channel 223A at Old Forge, New York, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau